

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 106

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

AN ACT

RELATING TO COMPULSORY SCHOOL ATTENDANCE; PROVIDING FOR EARLY
IDENTIFICATION OF UNEXCUSED ABSENCES AND TRUANCY; PROVIDING FOR
ENFORCEMENT OF HABITUAL TRUANCY; PROVIDING FOR THE SUSPENSION
OF AN HABITUAL TRUANT'S DRIVER'S LICENSE; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Compulsory School
Attendance Law is enacted to read:

"[NEW MATERIAL] UNEXCUSED ABSENCES AND TRUANCY--ATTENDANCE
POLICIES.--

A. As used in this section and Sections 22-12-7 and
22-12-8 NMSA 1978:

(1) "habitual truant" means a student who has
accumulated the equivalent of ten or more unexcused absences
within a school year;

.151305.1

underscored material = new
[bracketed material] = delete

1 (2) "truant" means a student who has
2 accumulated five unexcused absences within any twenty-day
3 period; and

4 (3) "unexcused absence" means an absence from
5 school or a class for which the student does not have an
6 allowable excuse pursuant to the Compulsory School Attendance
7 Law or rules of the local school board or governing authority
8 of a private school.

9 B. Each school district shall maintain an
10 attendance policy that:

11 (1) provides for early identification of
12 students with unexcused absences, truants and habitual truants
13 and provides intervention strategies that focus on keeping
14 truants in an educational setting and prohibit out-of-school
15 suspension and expulsion as the punishment for truancy; and

16 (2) requires that class attendance be taken
17 for every instructional day in every public school or school
18 program in the district.

19 C. School districts shall report truancy and
20 habitual truancy rates to the department in a form and at such
21 times as the department determines."

22 Section 2. Section 22-12-2 NMSA 1978 (being Laws 1967,
23 Chapter 16, Section 170, as amended) is amended to read:

24 "22-12-2. COMPULSORY SCHOOL ATTENDANCE--RESPONSIBILITY.--

25 A. Any qualified student and any person who because

1 of his age is eligible to become a qualified student as defined
 2 by the Public School Finance Act until attaining the age of
 3 majority shall attend a public school, a private school, a home
 4 school or a state institution. A person shall be excused from
 5 this requirement if:

6 (1) the person is specifically exempted by law
 7 from the provisions of this section;

8 (2) the person has graduated from a high
 9 school;

10 (3) the person is at least seventeen years of
 11 age and has been excused by the local school board or its
 12 authorized representative upon a finding that the person will
 13 be employed in a gainful trade or occupation or engaged in an
 14 alternative form of education sufficient for the person's
 15 educational needs and the parent, guardian or other person
 16 having custody and control consents; or

17 (4) with consent of the parent [~~guardian or~~
 18 ~~person having custody and control~~] of the person to be excused,
 19 the person is excused from the provisions of this section by
 20 the superintendent of schools of the school district in which
 21 the person is a resident and the person is under eight years of
 22 age.

23 B. A person subject to the provisions of the
 24 Compulsory School Attendance Law shall attend school for at
 25 least the length of time of the school year that is established

.151305.1

1 in the school district in which the person is a resident.

2 C. Any parent [~~guardian or person having custody~~
3 ~~and control~~] of a person subject to the provisions of the
4 Compulsory School Attendance Law is responsible for the school
5 attendance of that person.

6 D. Each local school board and each governing
7 authority of a private school shall enforce the provisions of
8 the Compulsory School Attendance Law for students enrolled in
9 their respective schools."

10 Section 3. Section 22-12-7 NMSA 1978 (being Laws 1967,
11 Chapter 16, Section 175, as amended) is amended to read:

12 "22-12-7. ENFORCEMENT OF ATTENDANCE LAW--HABITUAL
13 TRUANTS--PENALTY.--

14 A. Each local school board and each governing
15 authority of a private school shall initiate the enforcement of
16 the provisions of the Compulsory School Attendance Law for
17 students enrolled in their respective schools.

18 B. To initiate enforcement of the provisions of the
19 Compulsory School Attendance Law against an habitual truant, a
20 local school board or governing authority of a private school
21 or its authorized representatives shall give written notice of
22 the habitual truancy by certified mail to or by personal
23 service on the parent [~~guardian or custodian~~] of [~~a~~] the
24 student subject to and in noncompliance with the provisions of
25 the Compulsory School Attendance Law.

.151305.1

1 C. If ~~[violations of the provisions of the~~
2 ~~Compulsory School Attendance Law]~~ unexcused absences continue
3 after written notice of habitual truancy as provided in
4 Subsection B of this section has occurred, the student shall be
5 reported to the probation services office of the judicial
6 district where the student resides for an investigation as to
7 whether the student shall be considered to be a neglected child
8 or a child in a family in need of ~~[supervision]~~ services
9 because of habitual truancy and thus subject to the provisions
10 of the Children's Code. In addition to any other disposition,
11 the children's court may order the habitual truant's driving
12 privileges to be suspended for a specified time not to exceed
13 ninety days on the first finding of habitual truancy and not to
14 exceed one year for a subsequent finding of habitual truancy.

15 D. If, after review by the juvenile probation
16 office ~~[of the children's court division or by the district~~
17 ~~judge of the children's court division]~~ where the student
18 resides, a determination and finding is made that the
19 ~~[nonattendance]~~ habitual truancy by the student may have been
20 caused by the parent ~~[guardian or one having custody]~~ of the
21 student, then the matter will be referred by the juvenile
22 probation office ~~[or by the children's court division of the~~
23 ~~district court]~~ to the district attorney's office or any law
24 enforcement agency having jurisdiction for appropriate
25 investigation and filing of charges allowed under the

.151305.1

1 Compulsory School Attendance Law. Charges against the parent
2 may be filed in magistrate court or district court.

3 E. A parent [~~guardian or one having custody~~] of the
4 student who, after receiving written notice as provided in
5 Subsection B of this section and after the matter has been
6 reviewed in accordance with Subsection D of this section,
7 knowingly allows the student to continue to violate the
8 Compulsory School [~~Attendance~~] Attendance Law shall be guilty
9 of a petty misdemeanor. Upon the first conviction, a fine of
10 not less than twenty-five dollars (\$25.00) or more than one
11 hundred dollars (\$100) may be imposed, or the parent [~~guardian~~
12 ~~or one having custody~~] of the student may be ordered to perform
13 community service. If violations of the Compulsory School
14 Attendance Law continue, upon the second and subsequent
15 convictions, the parent [~~guardian or one having custody~~] of the
16 student who knowingly allows the student to continue to violate
17 the Compulsory School Attendance Law shall be guilty of a petty
18 misdemeanor and shall be subject to a fine of not more than
19 five hundred dollars (\$500) or [~~incarceration for a period~~]
20 imprisonment for a definite term not to exceed six months or
21 both.

22 F. The provisions of this section shall apply
23 beginning July 1, [~~1987~~] 2004."

24 Section 4. Section 22-12-8 NMSA 1978 (being Laws 1985,
25 Chapter 104, Section 1) is amended to read:

.151305.1

